

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.
★ SEP 15 2010 ★

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TRUSTEES OF THE LOCAL 813 I.B.T.
INSURANCE TRUST FUND, THE LOCAL 813
I.B.T. PENSION TRUST FUND AND LOCAL
813 AND LOCAL 1034 SEVERANCE TRUST
FUND,

BROOKLYN OFFICE

MEMORANDUM AND ORDER

Case No. 09-CV-~~443~~ (FB) (RER)
443S

Plaintiff,

-against-

SPRINT RECYCLING, INC.,

Defendant.
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Appearances:

For the Plaintiff:

JULIE COHEN LONSTEIN, ESQ.

Lonstein Law Office, P.C.

1 Terrace Hill, Box 351

Ellenville, New York 12428

BLOCK, Senior District Judge:

On August 6, 2010, Magistrate Judge Reyes issued a Report and Recommendation ("R&R") recommending that the Court award default judgment against defendant in the total amount of \$200,133.61, consisting of \$181,323.67 in delinquent contributions and liquidated damages, \$1,650.00 in reasonable attorneys' fees, and \$350.00 in costs. See R&R at 9. The R&R also stated that defendant's failure to object within fourteen days of receiving the R&R would preclude appellate review. See *id.* Plaintiff's attorney mailed a copy of the R&R to defendant on August 19, 2010; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. See *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, see *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

s/Frederic Block

FREDERIC BLOCK

Senior United States District Judge

Brooklyn, NY
September 8, 2010